

REMARKS

Claims 37-56 are in the application for consideration by the examiner at this time. In the Official action mailed August 26, 2005, claims 38, 40, 46, 47, 52 and 53 were allowed for which the applicant is grateful.

The Official action set forth prior art rejections of claims 37, 39, 41-45, 48-51, and 54-56, which are outlined below.

- Claims 37 and 39 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. patent No. 6,430,496 of Smith *et al.* (Smith). This rejection is set forth on pages 2-4 of the Official action.
- Claim 41 was rejected as being unpatentable over U.S. patent No. 6,084,870 of Wooten *et al.* (Wooten) in view of U.S. patent No. 5,922,040 of Prabhakaran. This rejection is set forth on pages 4-6 of the Official action.
- Claims 42 and 43 were rejected under 35 U.S.C. §102(b) as being anticipated by Prabhakaran. This rejection is set forth on pages 6-8 of the Official action.
- Claims 49, 55, and 56 were rejected under 35 U.S.C. §103(a) as being unpatentable over Prabhakaran. This rejection is set forth on pages 8 and 9 of the Official action.
- Claims 44 and 50 were rejected under 35 U.S.C. §103(a) as being unpatentable over Prabhakaran in view of U.S. patent No. 5,857,159 of Dickrell *et al.* (Dickrell). This rejection is set forth on pages 10 and 11 of the Official action.
- Claims 45 and 50 were rejected under 35 U.S.C. §103(a) as being unpatentable over Prabhakaran in view of U.S. patent No. 5,548,273 of Nicol *et al.* (Nicol). This rejection is set forth on pages 11-13 of the Official action.
- Claims 48 and 54 were rejected under 35 U.S.C. §103(a) as being unpatentable over Prabhakaran in view of U.S. patent No.

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5,670,830 of Koga *et al.* (Koga). This rejection is set forth on pages 13 and 14 of the Official action.

In summary, claims 37 and 39 were rejected over the teachings of Smith alone. Claims 39, 41-45, 48-51, and 54-56 were rejected over the teachings of Prabhakaran alone or combined with the teachings of Wooten, Dickrell, Nicol, or Koga. Applicant respectfully submits that the inventions defined in claims 37, 39, 41-45, 48-51, and 54-56 are patently distinguishable from the teachings of Smith alone; or the teachings of Prabhakaran alone or combined with the teachings of Wooten, Dickrell, Nicol, or Koga within the meaning of 35 U.S.C. §102 or 35 U.S.C. §103.

Claims 37 and 39 define, *inter alia*, a plurality of terminals, and specific mobile vehicle data is communicated to any of the designated terminals. In this arrangement, when a data requestor who wishes to obtain data cannot perform input operations, or when a data requesting device differs from a data receiving device, only the information necessary for the receiver can be effectively transmitted from the requesting device to the receiving device.

The teachings of Smith propose, as in shown Fig. 1, that terminals (the call takers 12 and the remote data entry terminals 14) and the vehicles 20 communicate via and AVL system 18, and the communication data is managed at the database server 10. While the teachings of Smith may propose communication and presentation from the AVL system 18 to the vehicles 20, these teachings do not describe a configuration where a terminal

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communicates information on any of the designated mobile vehicle to any of the designated terminals, as required in claims 37 and 39, and therefore, these claims are patently distinguishable from the teachings of Smith.

In more detail, the teachings of Smith are concerned with a fully automated vehicle dispatching, monitoring, and billing system. In the paragraph at the bottom of page 3, the Official action explained where the teachings of Smith anticipate the limitations set forth in the last paragraph of claim 37. However, applicant respectfully submits that these positions may not be correct. In the system proposed by Smith, a single database server contains both the information on current vehicle positions and status, and information on future appointments for vehicle use (column 11, lines 8-12). This information includes the dispatch file 30. The AVL (automatic vehicle locator) system 18; which is shown in Fig. 1 of Smith; is allegedly used to obtain vehicle location information and to route information, relay dispatching commands, and allegedly request data updates from vehicles over wireless communication links 22 (column 5, lines 8-19). Within the teachings of Smith, the information from the AVL is apparently communicated to the database server and saved in the dispatch file 30. Accordingly, when a request for status information is made in accordance with the discussion at column 23, lines 21-45, of Smith (which was cited in the Official action); this information is obtained from the server 10, and not the vehicles themselves. For at least

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these reasons, applicant respectfully submits that the teachings of Smith cannot contemplate or suggest the limitations set forth in the last paragraph of claim 37. Due to the fact that the aforesaid request for status information is not communicated to the vehicles in Smith, it is not possible for a presentation means to display information in response thereto, as required in claim 39.

For a least the foregoing reasons, applicant respectfully submits that claims 37 and 39 are patently distinguishable from the teachings of Smith within the meaning of 35 U.S.C. §102 or 35 U.S.C. §103. Therefore, applicant respectfully requests that the examiner reconsider and withdraw this rejection.

The teachings of Wooten and Prabhakaran were used in the rejection of claim 41. The teachings of Wooten, as well as Prabhakaran, are concerned with fleet management for freight transportation. These teachings are not concerned with the management of construction machines and for this reason are not concerned with obtaining the same data from the mobile vehicles as required in the present invention. For example, the teachings of Wooten and Prabhakaran never contemplate or suggest gathering fuel quantity data or voltage data.

In more detail, the teachings of Wooten do not describe the configuration where a terminal communicates information on any vehicle identified by a terminal to any of designated terminals, as required in claim 41. With respect to the teachings of Prabhakaran in general and at column 13, lines 50-56, as

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noted in the outstanding Official action, these teachings propose updating an icon at a selected time on a display of a vehicle. On the other hand, since mobile vehicle identification data in present claim 41 are communicated to a terminal side, the display location in the invention defined in claim 41 differs from a display location as proposed by the teachings of Prabhakaran.

For at least the above reasons, applicant respectfully submits that the teachings of Wooten and Prabhakaran cannot motivate one of ordinary skill in the art to the invention defined in claim 41. Accordingly, applicant respectfully submits that claim 41 is patently distinguishable from these teachings.

The bottom of page 5 of the Official action stated that Prabhakaran includes a display means for altering a display mode of the display means, based on one of, communication progression between the plurality of mobile terminals and the plurality of mobile vehicles (column 7, lines 12-19), and an elapsed time since a last data request was input from the plurality of terminals to the plurality of mobile vehicles (column 13, lines 15-56). These limitations appear in claims 41 and 42. Column 7, lines 12-19, of Prabhakaran proposes movement of the icon 520. Movement of the icon 520 assumedly would be based upon data communication. However, such "data communication" is different from "communication progression." A determination or display based upon "communication progression" would measure a timeframe of receiving and transmitting data, whereas "data communication" for the movement of the

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icon 520 in Prabhakaran is concerned with receiving complete data and displaying it on the screen. These two parameters are different, and one cannot suggest the other. For this reason, applicant respectfully submits that the teachings of Prabhakaran do not contemplate or suggest this limitation in claims 41 and 42.

In other words, the discussion in Prabhakaran at column 13, lines 15-56, which was cited in the outstanding Office action, is concerned with updating information. This procedure is different than altering a display mode of the display means based on an elapsed time since the last data request was input from the plurality of terminals to the plurality of mobile vehicles, as required in claim 41. For this reason, the teachings of Prabhakaran cannot contemplate or suggest this limitation in claim 41.

In regards to present claim 42, the teachings Prabhakaran propose a terminal having one display and keyboard (column 2, lines 31-35). These teachings of Prabhakaran do not remotely describe a configuration or arrangement where a plurality of terminals and a plurality of construction machines mutually communicate, as required in claim 42.

In this connection, it is respectfully noted that the Official action referred to column 37, lines 37-52, of Prabhakaran as a corresponding to various parts of the presently claimed invention, such as proposing an apparatus for communicating data about mobile vehicles to the terminal, in response to a

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data request by the terminal through input operation or in response to voluntary transmission from a mobile vehicle side. On the other hand, the invention as defined in applicant's claim 42 requires a terminal including, *inter alia*, display means that displays by changing a display mode of an identifier for identifying the mobile vehicle based on an elapsed time from the last communication of mobile vehicle information from the mobile vehicle, in association with each plurality of mobile vehicles. Applicant cannot find where the teachings of Prabhakaran suggest these arrangements required in claim 42. Accordingly, applicant respectfully submits that claim 42 is patently distinguishable from the teachings of Prabhakaran.

With respect to claim 43, the Official action stated that Prabhakaran suggests establishing a management area or a beyond-management area (figure 1 and column 4, lines 22-35 and 49-57) and the construction machine information includes information that the construction machine has either departed from the management area or entered the beyond-management area, and the construction machine information is displayed on the screen of the receiving terminal (column 4, lines 49-57). This statement appears at the top of page 8 of the Official action. Applicant respectfully cannot agree with this position. Firstly, the teachings of Prabhakaran never establish a management area or a beyond-management area, as required in claim 43. The screen shown in figure 1 of Prabhakaran is not defined or designated as a

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management area or a beyond-management area, but simply a map showing the location of the vehicle. If the vehicle travels beyond the map shown in figure 1, a new map is displayed showing the present location of the vehicle.

Furthermore, Prabhakaran proposes that each terminal has one display and keyboard (column 2, lines 31-35). In other words, the teachings of Prabhakaran do not describe a configuration of the presently claimed invention where a plurality of terminals and a plurality of construction machines mutually communicate, such as required in claim 43. Moreover, the teachings of Prabhakaran only propose showing a location of a vehicle. There is no description in Prabhakaran of establishing a specific area, transmitting construction machine information to a receiving terminal side, including information that the construction machine has either departed from the specific management area or entered the beyond-management area, such as required in present claim 43. For at least these reasons, applicant respectfully submits that the invention set forth in claim 43 is patently distinguishable from the teachings of Prabhakaran.

With respect to claim 44, the Official action stated that Dickrell suggests the construction machine information includes information that an engine of one of the construction machines was started in a specified time frame (column 5, lines 43-52), and the construction machine information is displayed on the screen of the individual construction machine (column 2, line 42, to column 3,

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line 22, and column 6, lines 33-47). This statement appears in the paragraph bridging pages 10 and 11 of the Official action. Again, applicant respectfully disagrees with this position. The discussion in Dickrell at column 5, lines 43-52, is associated with the diagram shown in figure 6 therein and is concerned with the amount of time that the vehicle engine spends either idling or in the power take-off mode. This is quite different than information concerning whether an engine of one of the construction machines was started in a specified time frame, as required in claim 44. For example, the limitation in applicant's claim 44 requires determining the amount of time the engine was not started or detecting when the engine was not running, which cannot be measured by the teachings of Dickrell shown in figure 6. For at least such reasons, applicant respectfully submits that claim 44 is patently distinguishable from the teachings of Prabhakaran and Dickrell.

With respect to claim 45, the Official action stated that Nicol suggest the mobile vehicle information includes information that voltage of the power supply has fallen to or below a prescribed level that is displayed on the screen of the receiving terminal (column 7, line 55, to column 8, line 12). This appears at the middle of page 12 of the Official action. The discussion in Nicol at column 7, line 55, to column 8, line 12, proposes detecting whether not the engine of the vehicle is running by detecting a fluctuation in the voltage supplied by the power supply. This is different than detecting a low voltage

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where the starting of the vehicle will be difficult, as required in the present claims.

Furthermore, the teachings of Prabhakaran do not describe or suggest a configuration where a plurality of terminals and a plurality of construction machines mutually communicate, as required in claims 44 and 45. Therefore, applicant respectfully submits that one of ordinary skill in the art could not be motivated to the invention set forth in claims 44 and 45 based on the teachings of Prabhakaran together with Dickrell or Nicol.

Concerning claim 48, the Official action stated that Koga suggests an upper limit of travel distance is determined for each of the plurality of construction machines, the screen of the receiving terminal displaying the construction information that one of the construction machines traveled beyond the upper limit (column 14, lines 9-19). This position is set forth at the middle of page 14 of the Official action. The teachings of Koga are concerned with a single fuel use limiter-equipped hybrid electric car. Within the teachings of Koga, when the value of the distance traveled since externally charging of the battery unit has exceeded the preset value, the driving management controller 9 limits the output of the electric drive motor. The drive manager controller 9, however, cancels the limitation of the output of the electric drive motor when the battery unit is externally charged again. The teachings of Koga are not concerned with the plurality of vehicles, as required in claim 48, but only with

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a single vehicle. More importantly, the information about a travel distance is a measurement of battery life, which is not communicated to a terminal or the driver. For these reasons, applicant respectfully submits that the combined teachings of Prabhakaran and Koga cannot suggest the invention of claim 48.

As explained above, the teachings of Prabhakaran propose one display and keyboard (column 2, lines 31-35). In other words, the teachings of Prabhakaran do not describe a configuration of the presently claimed invention where a plurality of terminals and a plurality of construction machines mutually communicate. The teachings of Koga do not cure or rectify this deficiency in the teachings of Prabhakaran. For at least these reasons, applicant respectfully submits that the combined teachings of Prabhakaran and Koga cannot suggest the inventions set forth in the present claims, especially those set forth in present claim 48.

In addition and contrary to the positions taken in the outstanding Office action, applicant respectfully submits that the teachings of Koga and Prabhakaran are not properly combinable. The teachings of Koga are concerned with a single vehicle and battery life information that is not communicated to the driver or a terminal. On the other hand, Prabhakaran is concerned with a fleet of vehicles and positional information of the vehicle displayed on a map. There is no reason why one of ordinary skill in the art

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would include the battery life information as discussed in Koga in the system proposed by Prabhakaran.

Similarly, applicant respectfully submits that the teachings of neither Dickrell nor Nicol is properly combinable with the teachings of Prabhakaran. The teachings of Dickrell and Nicol are concerned with monitoring information about vehicles, such as fuel information or voltage information. On the other hand, the teachings of Prabhakaran are not concerned with obtaining this type of data. For these reasons, there is no motivation for one of ordinary skill in the art to include the structure proposed by Dickrell or Nicol in the system proposed by Prabhakaran.

The Official action took Official notice that the limitations set forth in claims 49-51 and 54-56 are well known in the art. Applicant respectfully submits that a teaching reference must be cited that show these limitations are well known in the art. Otherwise, any rejection of claims 49, 50, 51, 54, 55, and 56 must be withdrawn. For example, the teachings of Prabhakaran do not contemplate or suggest communication between a plurality of terminals and a plurality of mobile vehicles, as required in the present claims. For this reason, applicant's claims cannot be unpatentable over such teachings.

For the foregoing reasons, applicant respectfully submits that claims 37, 39, 41-45, 48-51, and 54-56 are patently distinguishable from the teachings of Smith alone, or the teachings of Prabhakaran alone or combined with the

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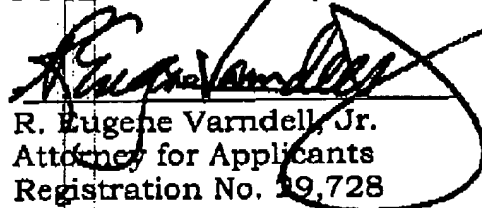
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teachings of Wooten, Dickrell, Nicol, or Koga within the meaning of 35 U.S.C. §102 or 35 U.S.C. §103. Therefore, applicant respectfully requests that the examiner reconsider and withdraw the rejections of these claims, and formally allow claims 37, 39, 41-45, 48-51, and 54-56, together with allowed claims 38, 40, 46, 47, 52 and 53.

The foregoing is believed to be a complete and proper response to the Official action mailed August 26, 2005. While it is believed that all the claims in this application are in condition for allowance, should the examiner have any comments or questions, it is respectfully requested that the undersigned be telephoned at the below listed number to resolve any outstanding issues.

In the event this paper is not timely filed, applicant hereby petitions for an appropriate extension of time. The fee therefor, as well as any other fees which become due, may be charged to our deposit account No. 50-1147.

Respectfully submitted,  
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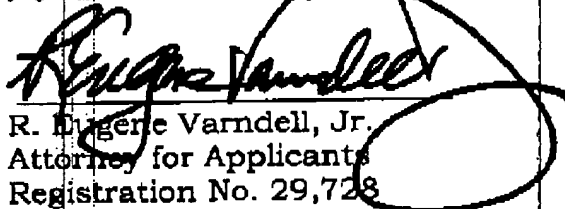
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